

Ryan J. Works, Esq. (NSBN 9224)
Amanda M. Perach, Esq. (NSBN 12399)
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
rworks@mcdonaldcarano.com
aperach@mcdonaldcarano.com

John R. Ashmead, Esq.
Robert J. Gayda, Esq.
Catherine V. LoTempio, Esq.
Laura E. Miller, Esq.
Andrew J. Matott, Esq.
(*pro hac vice applications granted*)
SEWARD & KISSEL LLP
One Battery Park Plaza
New York, NY 10004
Telephone: (212) 574-1200
ashmead@sewkis.com
gayda@sewkis.com
lotempio@sewkis.com
millerl@sewkis.com
matott@sewkis.com

*Counsel for Official Committee
of Unsecured Creditors*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

CASH CLOUD, INC., dba COIN CLOUD,

Debtor.

Case No.: 23-10423-mkn
Chapter 11

Appeal Reference No.: 24-30

BAP Case No.: 24-1171

**APPELLANT'S STATEMENT OF
ISSUES AND DESIGNATION OF ITEMS
FOR THE RECORD ON APPEAL**

The Official Committee of Unsecured Creditors in the above-captioned case (the "Committee"), by and through its undersigned counsel, provides the following statement of the issues to be presented and designation of items of record on its appeal ("Appeal") from this Court's *Order on Motion for Entry of an Order Authorizing Debtor to Surcharge the Collateral of Genesis Global Holdco, LLC, Enigma Securities Limited, and AVT Nevada, L.P.* [ECF No. 1794] (the

1 “Order”) entered on October 4, 2024. Appellant’s *Notice of Appeal* [ECF No. 1804] was timely filed
2 on October 17, 2024. Appellee is Cash Cloud, Inc. dba Coin Cloud (“Cash Cloud”), Enigma
3 Securities Limited (“Enigma”) and Genesis Global Holdco, LLC (“Genesis”). The U.S. Bankruptcy
4 Appellate Panel for the Ninth Circuit (“BAP”) has assigned appeal reference number 24-30 to this
5 Appeal, and case number 24-1171.

6 **I. STATEMENT OF ISSUES ON APPEAL**

7 1. Did the Court err in denying the surcharge where the Debtor and the Committee
8 established that Storage Costs and Sale Costs conferred a quantifiable benefit to the Secured
9 Creditors.

10 2. Did the Court err in denying the surcharge against Enigma or any other secured
11 creditor for the Storage Costs incurred by the Estate by focusing on whether Enigma or any other
12 secured creditor at any relevant time has an oversecured, fully secured, partially secured, or wholly
13 unsecured claim?

14 3. Did the Court err in denying the surcharge against Enigma for the Storage Costs
15 incurred by the Estate because certain of Enigma’s liens are subject to avoidance?

16 4. Did the Court err in denying the surcharge against Enigma for the Sale Costs incurred
17 by the Estate by finding that the Surcharge Analysis failed to allocate the Sale Costs among the sale
18 of DCMs or the sale of software.

19 5. Did the Court err in denying the surcharge against Genesis for the Sale Costs incurred
20 by the Estate by failing to consider that the Sale Costs were incurred for the benefit of Genesis where
21 Genesis is secured by the DCMs and the software.

22 6. Did the Court err in finding that the Secured Creditors did not consent to the
23 surcharge?

II. DESIGNATION OF ITEMS FOR RECORD ON APPEAL

Appellant hereby designates the following record on appeal:

Filing Date	Document Title	ECF No. ¹
7/24/2023	Motion for Entry of an Order Authorizing Debtor to Surcharge the Collateral of Genesis Global Holdco, LLC, Enigma Securities Limited, and AVT Nevada, L.P.	926
7/24/2023	Declaration Of Tanner James In Support Of Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P.	927
9/1/2023	Objection To Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P	1160
9/1/2023	AVT Nevada, L.P.'s Objection to Debtor's Motion to Surcharge	1162
9/1/2023	Enigma Securities Limited's Objection to Debtor's Surcharge Motion	1163
9/1/2023	Declaration Of Andrew Kissner, Esq. In Support of Enigma Securities Limited's Objection To Debtor's Surcharge Motion	1165
9/15/2023	Omnibus Reply In Support Of Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P.	1243
9/15/2023	Supplemental Declaration Of Tanner James In Support Of Omnibus Reply In Support Of Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P.	1244
9/15/2023	Joinder of the Official Committee of Unsecured Creditors to the Debtor's Motion Entry of an Order Authorizing Debtor to Surcharge the Collateral of Genesis Global Holdco, LLC, Enigma Securities Limited, and AVT Nevada, L.P. And Debtor's Omnibus Reply in Support Thereof	1246
9/20/2023	Second Supplemental Declaration Of Tanner James In Support Of Omnibus Reply In Support Of Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P.	1281
9/26/2023	Third Supplemental Declaration Of Tanner James In Support Of Omnibus Reply In Support Of Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis	1307

¹ Unless otherwise indicated, all ECF No. references are to *In re Cash Cloud, Inc., dba Coin Cloud* Bankruptcy Case No. 23-10423-mkn.

	Global Holdco, LLC, Enigma Securities Limited, And AVT Nevada, L.P.	
10/10/2023	Enigma Securities Limited's Pretrial Brief (I) In Opposition To Standing And Surcharge Motion And (II) In Support Of Administrative Expense Claim	1359
10/10/2023	Joint Pre-Trial Brief Of The Debtor And The Committee	1360
10/10/2023	Joint Pretrial Statement Relating To Trial	1361
10/10/2023	Genesis Global Holdco, LLC's Pre-Trial Brief	1362
10/4/2024	Memorandum Decision	1791
10/4/2024	Order On Motion For Entry Of An Order Authorizing Debtor To Surcharge The Collateral Of Genesis Global Holdco, LLC, Enigm Securities Limited, And AVT Nevada, L.P.	1794

Appellant reserves the right to designate such order and further documents to be included in the record on appeal as necessary and appropriate, including such items that are designated by Appellee. Appellant further reserves the right to request that the Court take judicial notice of matters pursuant to Rule 201 of the Federal Rules of Evidence.

III. DESIGNATION OF HEARING TRANSCRIPTS

The following transcripts should be included in the record on appeal. Appellee previously ordered the transcripts from the Clerk's Office and paid for the preparation costs with the Electronic Court Reporter.

1. Transcript of Evidentiary Hearing before The Honorable Mike K. Nakagawa, held October 16, 2023.

DATED this 31st day of October, 2024.

McDONALD CARANO LLP

By: /s/ Ryan J. Works

Ryan J. Works, Esq. (NSBN 9224)
Amanda M. Perach, Esq. (NSBN 12399)
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
rworks@mcdonaldcarano.com
aperach@mcdonaldcarano.com

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1 Andrew J. Matott, Esq.
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3 SEWARD & KISSEL LLP
4 One Battery Park Plaza
5 New York, NY 10004
6 ashmead@sewkis.com
7 gayda@sewkis.com
8 lotempio@sewkis.com
9 millerl@sewkis.com
10 matott@sewkis.com

11 *Counsel for Official Committee*
12 *of Unsecured Creditors*
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